

IN THE MATTER OF

\*

BEFORE THE

HARVEY ROSINSKY

\*

COMMISSIONER OF

\*

FINANCIAL REGULATION

Applicant

\*

OAH NO.: DLR-CFR-76B-10-17381

\* \* \* \* \*

**PROPOSED ORDER**

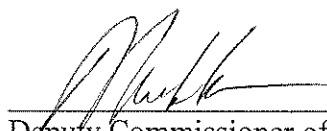
The Proposed Decision of the Administrative Law Judge in the captioned case having been considered in its entirety, it is **ORDERED** by the Commissioner of Financial Regulation (the "Commissioner") this 27<sup>th</sup> day of August, 2010 that the Proposed Decision shall be and hereby is adopted as a Proposed Order.

Pursuant to COMAR 09.01.03.09, Applicant has the right to file exceptions to the Proposed Order and present arguments to the Commissioner. Applicant has twenty (20) days from the postmark date of this Proposed Order to file exceptions with the Commissioner. COMAR 09.01.03.09A(1). The date of filing exceptions with the Commissioner is the date of personal delivery to the Commissioner or the postmark date on mailed exceptions. COMAR 09.01.03.09A(2).

Unless written exceptions are filed within the twenty (20)-day deadline noted above, this Order shall be deemed to be the final decision of the Commissioner.

COMMISSIONER OF FINANCIAL REGULATION

By:

  
Deputy Commissioner of Financial Regulation

**HARVEY ROSINSKY,**

**\* BEFORE JAMES T. MURRAY,**

**APPLICANT**

**\* AN ADMINISTRATIVE LAW JUDGE**

**v.**

**\* OF THE MARYLAND OFFICE OF**

**COMMISSIONER OF FINANCIAL**

**\* ADMINISTRATIVE HEARINGS**

**REGULATION**

**\* OAH CASE No: DLR-CFR-76B-10-17381**

**\* \* \* \* \***

**PROPOSED DECISION**

STATEMENT OF THE CASE  
ISSUE  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSIONS OF LAW  
RECOMMENDED ORDER

**STATEMENT OF THE CASE**

On April 20, 2010, the Maryland Commissioner of Financial Regulation (CFR), Department of Labor, Licensing and Regulation, denied the Applicant's application for a mortgage loan originator license. On April 26, 2010, the Applicant filed an appeal. On May 10, 2010, the CFR referred the matter to the Office of Administrative Hearings (OAH) for a hearing and to issue proposed findings of fact and conclusions of law, and a recommended order.

I held a hearing on July 15, 2010, at the OAH in Hunt Valley, Maryland pursuant to section 11-608(c) of the Financial Institutions Article, Annotated Code of Maryland (Supp. 2009). Jed Bellman, Staff Attorney, Office of the Attorney General, represented the CFR. The Applicant represented himself.

Procedure in this case is governed by the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2009); OAH's Rules of Procedure, Code of Maryland Regulations (COMAR) 28.02.01; and the Rules of Procedure of the Department, COMAR 09.01.03.

### **ISSUE**

Did the CFR properly deny the Applicant's application for a mortgage loan originator license?

### **SUMMARY OF THE EVIDENCE**

#### **Exhibits**

The CFR introduced the following documents, which I admitted into evidence:

- CFR Ex. 1. Notice of Hearing, May 19, 2010
- CFR Ex. 2. Letter from the Deputy CFR to the OAH, May 10, 2010
- CFR Ex. 3. Letter from Anne E. Ecker to the Applicant, April 20, 2010
- CFR Ex. 3A. Receipts for Certified Mail, received April 23, 2010
- CFR Ex. 3B. Letter from the Applicant to the CFR, April 26, 2010
- CFR Ex. 4. Individual Snapshot, September 17, 2009
- CFR Ex. 5. Experian U.S. Credit Profile Report, April 20, 2010
- CFR Ex. 6. Letters from the Applicant to Betty McBride, Shauntele Francis and Shauntel France Young, September 21, November 3 and November 9, 2009, respectively
- CFR Ex. 7. National Mortgage Licensing System New Application Jurisdiction Specific Requirements

The Applicant introduced one exhibit, which I admitted into evidence as follows:

- Applicant Ex. 1. Letter To whom it may concern, July 14, 2010

## Testimony

The Applicant testified on his own behalf.

The CFR called one witness: Keisha Whitehall Wolf, Supervisor of Licensing for the CFR.

## **FINDINGS OF FACT**

I find the following facts by a preponderance of the evidence:

1. The Applicant was a sole proprietor trading as Cadillac Moving (Cadillac) from 1963 until 2008. For the fifteen years prior to 2008, Cadillac was under contract to deliver products for J.C. Penney (Penney) in the Mid-Atlantic area. Penney was the Applicant's major client, responsible for the vast majority of his business..
2. In order to support Cadillac's delivery of products for Penney, the Applicant rented a 40,000 square foot warehouse for \$18,500.00 per month and rented delivery trucks at a monthly cost of \$16,000.00.
3. In May of 2008, Penney notified the Applicant that it was discontinuing delivery services.
4. In order to try to keep Cadillac viable, the Applicant liquidated his assets.
5. The Applicant did not have separate accounts for personal and business use.
6. The Applicant has unspecified judgments or liens against him.
7. In accounts opened on November 30, 2009, the Applicant owes a past due amount of \$68,453.00 to Unifund.
8. In an account opened January 13, 2009, the Applicant owes a past due amount of \$215.00 to Allied Interstate, Inc.
9. In an account opened on March 1, 2006, the Applicant owes a past due amount of \$5,971.00 to US Bank Manifest.

10. In an account opened on April 7, 2008, the Applicant owes a past due amount of \$26,412.00 to PACCAR Financial Corp. for the purchase of a delivery truck. The truck was returned, but a \$26,412.00 balance remains.
11. In a Chase credit card account opened on May 22, 2002, the Applicant owes a past due balance of \$32,931.00. That balance has been charged off.
12. In a Discover credit card account opened on May 22, 1989, the Applicant owes \$14,132.00. That balance has been charged off.
13. In a Discover credit card account opened on May 18, 1987, the Applicant owes \$13,480.00. That balance has been charged off.
14. In a Chase credit card account opened on August 3, 1997, the Applicant owes \$32,227.00. That balance has been charged off.
15. In a Bank of America credit card account opened on January 19, 1996, the Applicant owes \$63,148.00. That balance has been charged off.
16. In a Bank of America credit card account opened on May 21, 1987, the Applicant owes \$14,338.00. That balance has been charged off.
17. In a Bank of America credit card account opened on October 1, 1987, the Applicant owes \$57,539.00. That balance has been charged off.
18. In a Chase credit card account opened on February 13, 1990, the Applicant owes a past due balance of \$17,224.00.
19. On September 17, 2009, the Applicant applied for a mortgage loan originator license. In that application, the Applicant indicated that he had unsatisfied judgments or liens.
20. In response to requests for documentation of his financial situation from the CFR, the Applicant sent the CFR three letters. None of the letters contain any documentation of the

Applicant's financial situation.

21. On April 20, 2010, the CFR denied the Applicant's license application because the Applicant had not demonstrated financial responsibility.
22. On April 26, 2010, the Applicant requested a hearing.

**DISCUSSION**

The CFR may not issue a mortgage loan originator license unless the applicant "has demonstrated financial responsibility, character, and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently." Md. Code Ann., Fin. Inst. § 11-605(a)(3) (Supp. 2009). The CFR denied the Applicant's renewal application because it determined that the Applicant had not demonstrated financial responsibility in that the Applicant is heavily in debt, with many past due accounts, and provided no documentation regarding his financial situation. The Applicant argued that I should reverse the CFR's decision because his financial situation was the result of the downturn in the economy that has affected thousands of people. He maintained that until his business failed in 2008, his credit history was very good. The only reason he is so heavily in debt now is because he cannot find work in order to begin paying off his debts. For the reasons that follow, I find that the CFR properly denied the Applicant's application.

The Applicant concedes that he has numerous debts, but he blamed the debts on a failing economy. I gleaned from the evidence that the Applicant was a successful businessman from 1963 until 2008. He operated a delivery company, Cadillac, as a sole proprietorship. Prior to 2008, his credit history was essentially unblemished. In 2008, the Applicant's business failed when his primary client, Penney, canceled its contract with him because it ceased delivering

products. After that, the Applicant tried to prop up his failing enterprise by using every financial means at his disposal. Consequently, he ran up huge debts which he now has no means of paying.

More important, however, is that the Applicant cannot, in any detailed manner, explain his debts. He was given several opportunities by the CFR to provide documentation of what debts were the result of his failed business and what were personal, but was unable to do so. Even at the hearing, he was unable to explain why, for the most part, he owed particular amounts to particular creditors and whether the debts were for personal or business expenses. The Applicant did explain that one debt of approximately \$20,000.00 was for a delivery van that he returned to the seller and another debt was for a trash compactor that he also returned to the seller. The return of the truck was, to some extent, verified by the credit report but the alleged return of the compactor was not. One small debt was for medical care, but the Applicant could not state what medical service the debt was for. The Applicant explained that he comingled his business and personal expenses and it would be difficult to provide the kind of documentation required by the CFR.

I understand that the Applicant is not currently working since he lost his business and he truly may not have the financial means to make even small payments at this time. Nevertheless, although I accept the Applicant's general explanations for his insolvency, that does not mean he has demonstrated his eligibility for a mortgage loan originator license. The Applicant's approach to business indicates that he is not financially responsible. He was unable to produce any business record to substantiate anything about his business, such as what the debts were incurred for, what assets he or the business had, or what he did with his assets upon closing the business. The Applicant provided no information as to what arrangements, if any, he had made to try to

resolve his debts, such as payment plans or the like. He had no documentation of turning in his delivery van or trash compactor. Further, it appears that some of the accounts at issue, opened in 2009, were opened by the Applicant after he knew his business was failing. This may have been done in order to save the business. However, without any explanation, more information or documentation, it appears fiscally irresponsible.

I have no doubt, and the credit report substantiates, that the Applicant had a good credit history prior to 2008. I also recognize that if the Applicant were to be licensed as a mortgage loan originator, his prospects of earning money in order to begin paying off his debts would be greatly increased. Nevertheless, the evidence before me overwhelmingly establishes that the CFR properly denied the Applicant's application because the Applicant has not demonstrated financial responsibility.

In sum, I cannot conclude that the Applicant has demonstrated financial responsibility. He still owes creditors over \$75,000.00 and has had over \$225,539.00 in debt charged off.<sup>1</sup> At the same time, he has presented little documentation of the bases for the debts or the reasons for his inability to pay. According to the Applicant, it would be very hard for him to obtain such documentation. Yet since September 2009, when the Applicant first applied, he has provided no documentation regarding his financial situation. The Applicant's recent history of unpaid debts, charge-offs, and repossession does not show financial responsibility. Thus, the Applicant's failure to demonstrate financial responsibility is a valid basis for the CFR to deny the application.

### **CONCLUSIONS OF LAW**

I conclude as a matter of law that the CFR properly denied the Applicant's application for a mortgage loan originator's license. Md. Code Ann., Fin. Inst. § 11-605(a)(3) (Supp. 2009).

---

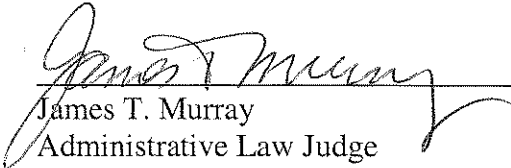
<sup>1</sup> A "charge-off" is a debt on which no payment has been made in 150 to 180 days and the creditor has written off as uncollectible.



**RECOMMENDED ORDER**

**I RECOMMEND** that the Maryland Commissioner of Financial Regulation deny the Applicant's application for a mortgage loan originator's license.

July 28, 2010  
Date Decision Mailed

  
James T. Murray  
Administrative Law Judge

JTM/gr  
#115342